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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/708,234	02/18/2004	HANK KLEBAN		2233
27107	7590	05/24/2006		
RICHARD A. JOEL ESQ. 496 KINDERKAMACK ROAD ORADELL, NJ 07649			EXAMINER CULBRETH, ERIC D	
			ART UNIT	PAPER NUMBER
			3616	

DATE MAILED: 05/24/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/708,234

Applicant(s)

KLEBAN, HANK

Examiner

Eric Culbreth

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-4 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☒ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

## **DETAILED ACTION**

### ***Oath/Declaration***

1. The oath or declaration is defective. A new oath or declaration in compliance with 37 CFR 1.67(a) identifying this application by application number and filing date is required. See MPEP §§ 602.01 and 602.02.

The oath or declaration is defective because:  
The declaration is not signed.

### ***Priority***

2. Applicant's apparent claim for the benefit of a prior-filed application under 35 U.S.C. 119(e) or under 35 U.S.C. 120, 121, or 365(c) is acknowledged. Applicant has not complied with one or more conditions for receiving the benefit of an earlier filing date under 35 U.S.C. as follows:

If this application is claiming the benefit of prior-filed nonprovisional application No. 09/800,871 under 35 U.S.C. 120, 121, or 365(c) in the first sentence of the specification, copendency between the current application and the prior application is required. Since the applications are not copending, the apparent benefit claim to the prior-filed nonprovisional application is improper. Similarly, the mention of the provisional application in the first sentence of the specification does not entitle applicant to the benefit of priority because this application was not filed within a year of filing of the provisional application.

***Specification***

3. The abstract of the disclosure is objected to because of the following informalities:

In line 2 "comprises" should be "comprise".

In line 8 "includes" should be "include".

In line 9 "form" should be "from".

Correction is required. See MPEP § 608.01(b).

4. The disclosure is objected to because of the following informalities:

In paragraph [0005], line 10 "includes" should be "include".

Appropriate correction is required.

5. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: There is no support in the specification for claim 4.

***Claim Rejections - 35 USC § 112***

6. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

7. Claims 1-4 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not

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described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

a. Regarding Step 1 and the remainder of the specification, it is not clear what is meant by “polar” moment of inertia.

b. Figure 1 and Step 2 are not understood:

-What is “a” in Figure 1?

-What is 1 (degree?) just above “F” in Figure 1?

-What is “L” (length of what? What bar in Figure 1)?

-In Figure 1 what are “torsion arm” and “torsion bar” (these are not mentioned in the specification before their description in Step 2)?

-What is the orientation of Figures 1 and 2 (i.e., a top view, side view, etc.)?

-What does the Greek symbol lambda represent in Figure ?

c. In Step 3, what does the Greek symbol theta represent?

d. In Step 4, why is the answer multiplied by 57.3 (how is this number derived; does this number change from vehicle to vehicle)?

e. In Step 3, the units for the equation do not work out (Step 3 (3) states the answer will be in radians; the answer of  $TxL/GxJ$  would be pounds length/PSI degrees apparently).

f. Regarding Step 5, it is not clear what line represents the degree of twist or what the "load" is.

g. In Step 6 the units are off (should be pounds/inch).

h. In Steps 5 and 6 the torsion arm length does not make sense (a torsion arm length of only  $2 \frac{7}{16}$  inches?).

8. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

9. Claims 1-4 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The preamble of claim 1 recites the invention as axles, but lines 4-5 recite the axles as comprising left and right rear wheels (is the invention just the axles or does include the wheels on the axles).

Claim 1, lines 8-9 are not accurate in reciting the axles as having the same effective length (the specification and drawings show the left axle as shorter than the right).

Claim 2 contradicts claim 1 (claim 2 recites the left axle as shorter and claim 1, as stated above, recited the axles as the same effective length).

In claim 3, line 3 "torsional" is misspelled.

In claim 3, lines 3-5 do not make sense due to poor and awkward grammar.

Claim 4 is not clear because it recites subject matter that is not disclosed in the specification.

***Claim Rejections - 35 USC § 102***

10. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

11. Claims 1-4 as best understood are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Kleban US 20020153191A1.

The document discloses all the claimed subject matter and was published more than one year before filing of this application by the applicant. It is a statutory bar.

***Conclusion***

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Hauser et al US006122996A shows one axle shorter than the other.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eric Culbreth whose telephone number is 571/272-6668. The examiner can normally be reached on Monday-Thursday, 9:00-6:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Dickson can be reached on 571/272-6669. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Eric Culbreth  
Primary Examiner  
Art Unit 3616



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